

# Memorandum



**Date:** December 4, 2007

**To:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

Agenda Item No. 12(B)2

**From:** George M. Burgess  
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name of the County Manager.

**Subject:** Report on Information and Issues Regarding an Ordinance Pertaining to Chapter 26 of the Code Entitled "Park and Recreation Department Rules and Regulations", Criminal Background Checks

---

On May 22, 2007, under agenda item 7A (attached) sponsored by Commissioner Souto the County Manager was instructed to provide the Board of County Commissioners a report on the following issues raised during the discussion of the above referenced item.

1. Provide a comparison of existing legislation (Shannon Melendi Act), State legislation (Jessica Lunsford Act) with the requirements of the proposed ordinance.

Response: Attachment "A" is a summary table assembled by the County Attorney's Office that compares all aspects of the existing local and state legislation with the proposed ordinance.

2. Provide information on Miami-Dade County School Board (M-DCPS) current practices regarding background checks.

Response: For non-instructional school district employees or contractual personnel schools must comply with the requirements of sections 1012.32, 1012.465 and 435.04, Florida Statutes and with the requirements of HB 1877, The Jessica Lunsford Act (2005). The requirements of these sections are outlined in the fourth column of Attachment "A". There are 52 types of offenses that would bar someone from employment or serving as a volunteer. There is no discretionary allowance in the statutes as to the severity or time passed since conviction; however, M-DCPS will give hiring consideration for five (5) of the enumerated offenses if the conviction is older than 10 years and for three (3) of the enumerated offenses if older than five years. M-DCPS will conduct a case-by-case review of specific circumstances surrounding twelve (12) other enumerated offenses. M-DCPS will not consider employment for the remaining thirty-two (32) offenses enumerated. Non-instructional applicants are hired first and then fingerprinted by the M-DCPS Fingerprint Department. Non-instructional M-DCPS employees only go through one background check unless there is a break in service. Effective July 1, 2007, M-DCPS charges each employee applicant \$71.00 for fingerprinting and processing through FDLE and the FBI. Contractual and vendors for M-DCPS must

have a fingerprint background check every five years. M-DCPS charges the vendor or contractor \$61.00 for fingerprinting and processing through FDLE and the FBI.

3. Provide information regarding not only the fiscal impacts of the proposed ordinance but also impacts on volunteerism or other labor.

Response: ***Impact for Park Employees and Volunteers*** - The proposed ordinance requires a pre-employment background check conducted through the Florida Department of Law Enforcement (FDLE) of all employees and volunteers whose primary responsibilities require physical presence on park property owned or operated by the County. Every year thereafter, the ordinance requires that these employees and volunteers undergo a background check by a Professional Background Screener. The FDLE, Division of Criminal Justice Information Services has a set price of \$47.00 per employee and \$36.00 per volunteer for background check services. There are annually 1,650 applicants, Children's Trust staff and seasonal employees in the Parks Department. 1,444 would require background checks costing **\$67,900**. There are approximately 100 additional contracted employees, scorekeepers and umpires who would require background checks at a cost of **\$4,700** to the Parks Department and, approximately 100 vendors who would be required to obtain and pay for background checks. There are also an estimated 600 volunteers who work directly with the Parks Department. The cost to the Department of providing background checks for these volunteers would be **\$21,600** annually. The Parks Department currently has 2,200 full-time and year-round part-time employees. Of this number approximately 1,923 positions require physical presence on park property. This translates into an annual cost to the Parks Department of **\$90,400<sup>1</sup>** for background checks. All employees and volunteers, etc. are required to have and display identification badges. The Parks Department currently provides ID badges to all new employees and replacement badges for existing staff. The cost of this is nominal and therefore is not included.

The monitoring and enforcement of this program would require a dedicated staff person to administer. The registering, logging and confirming of background checks is an ongoing process requiring monitoring of the following: New positions as they are filled; vacancy replacements; managing part-time and seasonal changes; and, maintaining current volunteer background information. The proposed ordinance also requires that the Department maintain an affidavit from each employee and volunteer affirming that they will not be working on Park property in violation of the ordinance. The addition of one staff position to assume these duties would add **\$60,000** (salary and fringes) to the overall cost.

**Total annual fiscal impact:           \$249,300**

---

<sup>1</sup> If the County were to use a professional screening service the cost for the annual checks could be substantially reduced. For example, using United Screening Services, Inc. as a benchmark cost (charging \$22 for a Florida and national background check); the annual cost of employee background checks would reduce the annual cost to approximately \$ 42,303.

4. Provide information regarding the fiscal impacts of the proposed ordinance for CBO's and other volunteers and vendors and review available options for securing background checks.

Response: ***Impact for CBO's, Other Volunteers and Vendors*** - The proposed ordinance requires a nationwide criminal background check prior to employing or allowing to volunteer any child event workers, park vendors and Programming Partners and CBO's. An annual background check of all such persons would also be required of all employees and volunteers or vendors whose duties require physical presence on park property owned by the County. The national background check can be conducted through the use of a professional background screening organization other than the FDLE who primarily engages in the practice of providing background information for a fee to third parties. Because this is a market driven service, there are a wide variety of options and costs for CBO's and other non-county employees available to comply with the ordinance. As outlined in the supplemental information to the ordinance (Attachment "B"), affiliated CBO's and other service organizations may be eligible to take advantage of the national or parent organizations ability to secure background check services at a reduced or nominal cost.

There are currently twenty-five (25) CBO and programming partnerships providing programs and services at County Parks. These organizations have approximately 1,293 coaches and regular volunteers. Using United Screening Services, Inc. as a benchmark cost (charging \$22 for a Florida and national background check) the total cost for these organizations to provide background checks annually is approximately \$28,446. A summary of what the approximate cost would be for each of the CBO and Programming Partners currently using park facilities is attached (Attachment "C"). CBO's and others are also required to provide ID badges to staff and volunteers. The average cost for a laminated picture ID is approximately \$3-\$5 each.

**Total annual fiscal impact:        \$33,618**

5. Provide information concerning the impact of the penalties imposed for violating the proposed ordinance.

Response: ***For Park Employees and Volunteers*** – The proposed ordinance requires Park Department employees and volunteers to wear identification badges while working or volunteering on County owned or operated park property. The penalty for failure to comply is \$250. The employee or volunteer would be liable for this cost. The implementation of a civil penalty against County employees represented by various collective bargaining units as opposed to initiating a disciplinary action procedure has not been evaluated. The proposed ordinance will remove the civil penalty with regard to employees.

***For CBO's, Other Volunteers and Vendors*** - The proposed ordinance provides for a \$500 civil penalty for any of the following violations: 1) Failure to perform a

background check on a potential child event worker, vendor, employee or volunteer, CBO or Programming Partner; 2) failure to perform a background check on an existing child event worker, vendor, employee or volunteer, CBO or Programming Partner; 3) permitting or performing work on a park by a child event worker, vendor, employee or volunteer, CBO or Programming Partner convicted of a felony involving; a) violence in the last (5) years, b) convicted of a felony involving the trafficking of narcotics in the last (5) years, or c) who is a sexual offender or a sexual predator; 4) permitting or performing work on a park by a child event worker, vendor, employee or volunteer, CBO or Programming Partner who has failed to provide proof of citizenship or legal immigration status; 5) failure to collect or maintain copies of background checks or affidavits for a child event worker, vendor, employee or volunteer, CBO or Programming Partner. Failure of a child event worker, vendor, employee or volunteer, CBO or Programming Partner to wear an identification badge carries a civil penalty of \$250. Since the functions of performing background checks and maintaining records are the responsibility of the organization, any penalty or fine for failure to comply would also be the responsibility of the organization. Responsibility for failure to comply with the requirement to wear an ID badge would likely rest with the individual.

6. Provide information on the issue of deterring qualified volunteers such as seniors, etc. because of the cost or unwillingness to go through a background check.

Response: Currently all long-term park volunteers are subject to a state and national background check if their volunteer service is more than 40 hours. Shorter-term volunteers are currently subject to a limited state background check.

Florida Statute 943.04351 requires that a state agency or governmental subdivision, prior to any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at any park, playground, day care center, or other place where children regularly congregate, must conduct a search of that person's name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement. This section does not apply to those positions or appointments within a state agency or governmental subdivision for which a state and national criminal history background check is conducted. There would be a negligible impact on Parks Department Volunteer participation under the proposed ordinance, other than the added cost (to the Department) of performing required annual checks.

Persons serving misdemeanor probation by performing community service hours in parks are also subject to background checks. Florida Statute 943.04352 requires that when the court places a defendant on misdemeanor probation the public or private entity providing probation services must conduct a search of the probationer's name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement. The Parks Department currently exceeds the

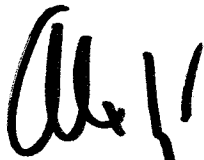
State statute by requiring all community service workers to undergo the state and national background check. The community service volunteer is responsible for paying the (\$36) fee. There has been a significant reduction in the number of community service volunteers coming to the Parks Department because of the required fee. The number of community service volunteers who are rejected for placement with the Parks Department based on the results of the background check has also reduced the availability of this type of volunteer service to the department.

7. Provide information on including requirement for immigration status and the impact of exclusion from employment and volunteerism for non-legal immigrants.

Section 26.33 of the Code of Miami-Dade County requires that all Programming Partner staff and all fair and carnival workers show proof of legal immigrant status. There is no provision in the Code for enforcement. The proposed ordinance expands the proof of legal immigrant status or citizenship requirement to include; park employees, park child event workers, employees of park vendors, volunteers and CBO's. This would effectively exclude anyone not in legal immigration status from participating in any capacity in an organized program conducted in County Parks. The proposed ordinance provides for a \$500 civil penalty for failure to enforce this provision.

In consideration of the importance of this issue, the Park and Recreation Department in conjunction with the County Attorney's Office will continue to work with the sponsor and others. They are tasked with developing an amended ordinance that not only meets the County's requirement, but that also provides a level of security for community needs.

#### Attachments



---

Alex Muñoz  
Assistant County Manager

**BACKGROUND CHECK COMPARISON  
ATTACHMENT "A"**

Issue	Current S. Melendi Act	Proposed S. Melendi Act	Jessica Lunsford Act (as applicable to employment & background screening- F.S. §1012.465)
Who must undergo a background check?	<p>(1) Programming Partner staff and volunteers who will have direct contact with program participants</p> <p>(2) Fair and carnival employees and agents who will have direct contact with children under 18</p>	<p>(1) Child Event Workers, Park Vendors, and Programming Partner or CBO volunteers and staff working or volunteering on County-owned or operated park property<sup>1 2</sup></p> <p>(2) County park employees and staff working/volunteering on County-owned or operated park property<sup>2</sup></p> <p><sup>1</sup> Only applies to persons having obtained legal immigrant status in the United States more than 120 days prior to start of employment or volunteerism</p> <p><sup>2</sup> Does not apply to persons volunteering for three (3) days or less in any six (6) month period</p>	<p>(1) Non-instructional school district employees or contractual personnel who are permitted access on school grounds when students are present</p> <p>(2) Non-instructional school district employees or contractual personnel who have direct contact with students</p> <p>(3) Non-instructional school district employees or contractual personnel who have access to or control of school funds</p> <p>*"Contractual Personnel" includes any vendors, individual, or entity under contract with the school board</p>
What kind of background check is required?	<p>(1) Official statewide background check, either through the Florida Department of Law Enforcement or the Miami-Dade Police Department</p> <p>(2) Proof of legal immigrant status in the United States</p>	<p>(1) Nationwide criminal background check conducted by private individuals or companies using non-fingerprint forms of identification (name and birth date and/or social</p>	<p>(1) Fingerprint background checks conducted through the Florida Department of Law Enforcement to check for statewide criminal and juvenile records</p> <p>(2) Fingerprint background</p>

# BACKGROUND CHECK COMPARISON ATTACHMENT "A"

		<p>security number based), including reporting whether person is listed on the National Sex Offender registry</p> <p>(2) However, prior to employment, prospective employees and volunteers for the Park and Recreation Department must undergo an FDLE fingerprint background check</p> <p>(3) Proof of US citizenship or legal immigrant status in the United States</p>	<p>checks conducted through the Federal Bureau of Investigations for federal crimes</p> <p>(3) Local criminal records checks through local law enforcement agencies</p>
<p>When or how often are background checks required?</p>	<p>The ordinance is silent. However, in practice, organizations are conducting background checks on an annual basis. The Park and Recreation Department conducts an FDLE fingerprint background check on all prospective employees and persons volunteering for longer than 1 week.</p>	<p>Prior to employment or volunteerism and every year thereafter.</p>	<p>Prior to employment or entry into a contractual relationship with school district and every five (5) years thereafter</p>
<p>Whose responsibility or duty is it to ensure that background checks are performed?</p>	<p>(1) Programming Partner staff and volunteers, and fair and carnival employees and agents are responsible for undergoing background checks at their expense</p>	<p>(1) Employers of child event workers, employers of park vendors, Programming Partners, and CBOs are responsible for securing background checks for their employees and volunteers at their expense</p> <p>(2) Miami-Dade Park and</p>	<p>The school district is responsible for securing background checks for its noninstructional employees or contractual personnel and the expense can be borne by either the district school board, the contractor, or the person being fingerprinted</p>

# BACKGROUND CHECK COMPARISON ATTACHMENT "A"

		<p>Recreation Department is responsible for securing background checks for its employees and volunteers at the expense of either the Department or the employee or volunteer</p>	
Who is barred from employment or volunteerism?	<p>(1) Persons with conviction(s) for substance abuse (2) Persons with conviction(s) for family violence (3) Persons with conviction(s) for crimes of moral turpitude</p>	<p>(1) Persons with conviction(s) or plea(s) of nolo contendere involving violence within the past five (5) years (2) Persons with conviction(s) or plea(s) of nolo contendere involving the trafficking of narcotics within the past five (5) years (3) Persons classified as sexual offenders or sexual predators under Florida Statutes or any person listed on the National Sex Offender Public Website (4) Persons failing to provide proof of US citizenship or legal immigrant status in United States</p>	<p>Persons with conviction(s) or plea(s) of nolo contendere to:</p> <p>(1) Fla. Stat. § 393.135 relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.</p> <p>(2) § 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.</p> <p>(3) § 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.</p> <p>(4) § 782.04, relating to murder.</p> <p>(5) § 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.</p>



**BACKGROUND CHECK COMPARISON  
ATTACHMENT "A"**

			<p>(6) § <u>782.071</u>, relating to vehicular homicide.</p> <p>(7) § <u>782.09</u>, relating to killing of an unborn quick child by injury to the mother.</p> <p>(8) § <u>784.011</u>, relating to assault, if the victim of the offense was a minor.</p> <p>(9) § <u>784.021</u>, relating to aggravated assault.</p> <p>(10) § <u>784.03</u>, relating to battery, if the victim of the offense was a minor.</p> <p>(11) § <u>784.045</u>, relating to aggravated battery.</p> <p>(12) § <u>784.075</u>, relating to battery on a detention or commitment facility staff.</p> <p>(13) § <u>787.01</u>, relating to kidnapping.</p> <p>(14) § <u>787.02</u>, relating to false imprisonment.</p> <p>(15) § <u>787.04(2)</u>, relating to taking, enticing, or removing a</p>
--	--	--	--

**BACKGROUND CHECK COMPARISON  
ATTACHMENT "A"**

		<p>child beyond the state limits with criminal intent pending custody proceedings.</p> <p>(16) § <u>787.04(3)</u>, relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.</p> <p>(17) § <u>790.115(1)</u>, relating to exhibiting firearms or weapons within 1,000 feet of a school.</p> <p>(18) § <u>790.115(2)(b)</u>, relating to possessing an electric weapon or device, destructive device, or other weapon on school property.</p> <p>(19) § <u>794.011</u>, relating to sexual battery.</p> <p>(20) Former s. <u>794.041</u>, relating to prohibited acts of persons in familial or custodial authority.</p> <p>(21) Chapter 796, relating to prostitution.</p> <p>(22) § <u>798.02</u>, relating to lewd and lascivious behavior.</p>
--	--	--

**BACKGROUND CHECK COMPARISON  
ATTACHMENT "A"**

			<p>(23) Chapter 800, relating to lewdness and indecent exposure.</p> <p>(24) § <u>806.01</u>, relating to arson.</p> <p>(25) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.</p> <p>(26) § <u>817.563</u>, relating to fraudulent sale of controlled substances, only if the offense was a felony.</p> <p>(27) § <u>825.102</u>, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.</p> <p>(28) § <u>825.1025</u>, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.</p> <p>(29) § <u>825.103</u>, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.</p> <p>(30) § <u>826.04</u>, relating to incest.</p> <p>(31) § <u>827.03</u>, relating to child abuse, aggravated child abuse, or</p>
--	--	--	--

**BACKGROUND CHECK COMPARISON  
ATTACHMENT "A"**

		neglect of a child.  (32) § <u>827.04</u> , relating to contributing to the delinquency or dependency of a child.  (33) Former s. <u>827.05</u> , relating to negligent treatment of children.  (34) § <u>827.071</u> , relating to sexual performance by a child.  (35) § <u>843.01</u> , relating to resisting arrest with violence.  (36) § <u>843.025</u> , relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.  (37) § <u>843.12</u> , relating to aiding in an escape.  (38) § <u>843.13</u> , relating to aiding in the escape of juvenile inmates in correctional institutions.  (39) Chapter 847, relating to obscene literature.  (40) § <u>874.05(1)</u> , relating to encouraging or recruiting another
--	--	--

**BACKGROUND CHECK COMPARISON  
ATTACHMENT "A"**

		<p>to join a criminal gang.</p> <p>(41) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.</p> <p>(42) <sup>1</sup>§ <u>916.0175</u>, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.</p> <p>(43) § <u>944.35(3)</u>, relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.</p> <p>(44) § <u>944.46</u>, relating to harboring, concealing, or aiding an escaped prisoner.</p> <p>(45) § <u>944.47</u>, relating to introduction of contraband into a correctional facility.</p> <p>(46) § <u>985.701</u>, relating to sexual misconduct in juvenile justice programs.</p> <p>(47) § <u>985.711</u>, relating to contraband introduced into</p>
--	--	---

**BACKGROUND CHECK COMPARISON  
ATTACHMENT "A"**

			<p>detention facilities.</p> <p>(48) Has not committed an act that constitutes domestic violence as defined in s. 741.30</p>
<p>Additional Requirements</p>	<p>(1) Programming Partner staff and permanent volunteer coaches shall wear a picture ID at all times while on County property and when in direct contact with program participants</p> <p>(2) Fair and carnival employees or agents who will have direct contact with children under 18 shall wear a picture ID at all times while on County property</p> <p>(3) Records of background checks and legal immigrant status must be kept by employer</p>	<p>(1) All child event workers, park vendors, staff members and volunteers of a Programming Partner or CBO, and employees or volunteers of the Park and Recreation Department shall sign and submit an affidavit to employer that no work or volunteer duties will be performed on park owned or operated property without successfully passing a background check</p> <p>(2) Records of affidavits, background checks, and legal immigrant status must be kept by employer</p> <p>(3) Every child event worker, park vendor, staff member and volunteer of a Programming Partner or CBO, and employees and volunteers of the Park and Recreation Department shall wear in ID badge that</p>	<p>(1) If FDLE loses fingerprints of a noninstructional school district employee or contractual personnel, then the person must file a new set of fingerprints</p> <p>(2) Under penalty of perjury, employees or contractors must agree to inform employer or the party with whom he/she is under contract within 48 hours if he/she is convicted of any of the disqualifying offenses</p>

# BACKGROUND CHECK COMPARISON ATTACHMENT "A"

What are the consequences or penalties of noncompliance?	<p>The ordinance is silent on penalties.</p> <p><b>**It should be noted, however, that § 21-284, the County's Sexual Predator Ordinance, states that no sexual predators are allowed on park property when a child under the age of 16 unless accompanied by a minor and he/she is the legal guardian or parent of that minor</b></p>		contains photo and full name while working or volunteering on park owned or operated property	<p>(1) Criminal penalties of maximum of \$500.00 fine and/or sixty (60) days in jail for an employer of a park vendor, employer of a child event worker, or a Programming Partner or CBO to knowingly permit or allow an employee or volunteer of such entity to work on park owned or operated property in violation of ordinance</p> <p>(2) Criminal penalties of maximum of \$500.00 fine and/or sixty (60) days in jail for working or volunteering on park owned or operated property in violation of ordinance</p> <p>(3) Civil penalties of \$500.00 for an employer of a park vendor, employer of a child event worker, or a Programming Partner or CBO for failing to secure background check of prospective or current employee or volunteer</p>	<p>(1) Criminal prosecution and penalties associated with perjury for persons who attest to meet, but actually fail to meet, the background check requirements</p> <p>(2) Criminal prosecution and penalties associated with perjury for persons who fail to inform their employer or the party with whom he/she is under contract within 48 hours of a conviction of any disqualifying offense</p> <p>(3) Immediate suspension and continued suspension until a final resolution of any appeals of any employee or contractual personnel who fails to pass the background check</p>
--	---	--	---	--	--

# BACKGROUND CHECK COMPARISON ATTACHMENT "A"

		<p>(4) Civil penalties of \$500.00 for an employer of a park vendor, employer of a child event worker, or a Programming Partner or CBO for permitting work or volunteerism by person who has been convicted of one of the disqualifying offenses or hasn't shown proof of US citizenship or legal immigrant status</p> <p>(5) Civil penalties of \$500.00 for an employer of a park vendor, employer of a child event worker, or a Programming Partner or CBO who fails to collect or maintain background checks, affidavits, and proof of citizenship or immigrant status</p> <p>(6) Civil penalties of \$250.00 for a park vendor, a child event worker, or an employee or volunteer of a Programming Partner, a CBO, or the Park and Recreation Department who fails to wear required ID badge</p>	
--	--	---	--



Date: May 22, 2007

To: Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

Supplement to  
Agenda Item No. 7A

From: George M. Surpless  
County Manager

Subject: Supplement Information to Ordinance Pertaining to Chapter 26 of the Code of Miami-Dade County Entitled "Park and Recreation Department Rules and Regulations"; Deleting Section 26-33; Creating Article III to Require Criminal Background Checks for all Persons Working or Volunteering on County Park Property – Regarding Possible Organizations that can Provide Criminal Background Checks at a Discounted or Lump-sum Rate

At the April 9, 2007 Recreation and Cultural Affairs Committee, Commissioner Moss requested that staff review and report on other possible organizations that can provide criminal background checks at a discounted or lump-sum rate. The issue being that smaller Community Based Organizations may have limited resources available to perform the background checks required by the Ordinance.

All national organizations that promote youth athletic or service programs have a criminal background check policy to which they expect all of their affiliates to adhere. The background check and cost sharing services that national organizations provide their affiliates varies from one organization to another. The following are some representative examples of what is available.

The American Youth Soccer Organization (AYSO) has a program called Safe Haven established to comply with the Child Protection Act and the Volunteer Protection Act. AYSO through the Safe Haven program acts as the criminal background requesting entity for all affiliates. AYSO was the first youth sports organization to create a formal program and offers assistance to other youth sports organizations interested in developing their own Safe Haven programs. Information about this service can be found on the AYSO website, ([www.soccer.org](http://www.soccer.org)).

The Little League International has contracted with a company called ChoicePoint to provide chartered U.S. leagues with 80 free searches. Additional searches above 80 that may be necessary are available at a reduced cost of only \$1 per search. They do not offer this service through Little League International to other organizations.

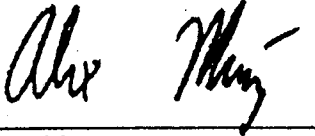
The National Alliance for Youth Sports (NAYS) does not exclusively endorse any single approach to or method of conducting background checks, but NAYS has identified a nine step, comprehensive screening policy for organizations to utilize; one of these components is a background check. NAYS members do receive discounts or promotions from six companies that provide background services. Information about these services can be found on the NAYS website, ([www.NAYS.org](http://www.NAYS.org)).

Pop Warner-Little Scholars, Inc. requires that each league conduct background checks on all persons who provide regular service to the league and/or who have repetitive access to or contact with players or teams. Other than providing information on their website ([www.popwarner.com](http://www.popwarner.com)) about the 43 states that provide free background checks (limited in most cases to a state search), and the seven states

with a free requirement that ranges from \$5 to \$18, Pop Warner does not have an assistance program for individual associations.

The National Mentoring Partnership has a program called SafetyNET started in 2003 as a federally sponsored pilot program through which local mentoring organizations across the country can access FBI fingerprint-based background checks on new volunteers through the National Mentoring Partnership. The pilot program funded through 2008 will test out several mechanisms for obtaining FBI background checks in an efficient and timely manner. The resulting information will help make a case for a permanent workable system for obtaining background checks on volunteers who work with children. Through SafetyNET, each FBI background check costs \$18 and results are delivered within 3-5 business days. Other organizations may qualify to participate in this program. Information about SafetyNET can be found at, ([www.mentoring.org/safetynet](http://www.mentoring.org/safetynet)).

There are a number of youth serving organizations as well as state resources that provide quality background checks for local organizations. There is every indication based on the preliminary research that those groups that are affiliated with a national or international organization do have access to reliable and mostly affordable background check information regardless of their size or resources. Those groups outside of any national affiliation can obtain national background checks through the Volunteer and Employee Criminal History System (VECHS) at a cost of \$47-\$36. It is staff's recommendation that small CBO's contact reputable private companies such as those affiliated with NAYS, who offer discounted or promotion opportunities.



Alex Muñoz  
Assistant County Manager

# MEMORANDUM

Agenda Item No. 7(A)

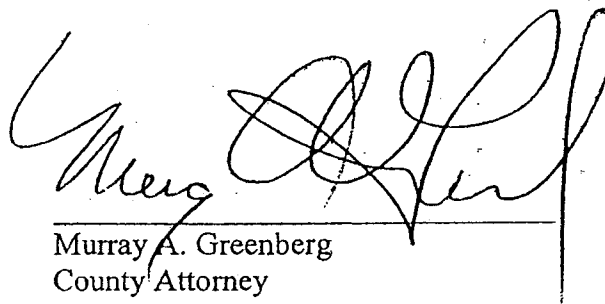
**TO:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**DATE:** May 22, 2007

**FROM:** Murray A. Greenberg  
County Attorney

**SUBJECT:** Ordinance pertaining to  
Chapter 26 of the Code  
entitled "Park and Recreation  
Department Rules and  
Regulations"; criminal  
background checks

The accompanying ordinance was prepared and placed on the agenda at the request of  
Senator Javier D. Souto.



Murray A. Greenberg  
County Attorney

MAG/bw

# Memorandum



**Date:** May 22, 2007

**To:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**From:** George M. Burges  
County Manager

**Subject:** Ordinance pertaining to Chapter 26 of the Code entitled "Park and Recreation Department Rules and Regulations"; criminal background checks

The ordinance pertaining to the criminal background checks will have an estimated fiscal impact of \$208,000 to Miami-Dade County. The estimate includes the cost of one staff position in the Park and Recreation Department (\$60,000 in salary and fringes) to implement and monitor compliance with the ordinance and the cost of conducting the background checks. The requirements in the ordinance may deter citizens from providing volunteer services. However, the impact cannot be determined at this time. Furthermore, Parks Programming Partners and other groups providing volunteer related services in Miami-Dade County Parks will be financially impacted due to the requirements of the ordinance.

A handwritten signature in cursive script, appearing to read "Alex Muñoz".

Alex Muñoz  
Assistant County Manager

Fiscal00106



# MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

DATE: May 22, 2007

FROM: Murray A. Greenberg  
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

ORDINANCE NO. \_\_\_\_\_

ORDINANCE PERTAINING TO CHAPTER 26 OF THE CODE OF MIAMI-DADE COUNTY ENTITLED "PARK AND RECREATION DEPARTMENT RULES AND REGULATIONS"; DELETING SECTION 26-33; CREATING ARTICLE III TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR ALL PERSONS WORKING OR VOLUNTEERING ON COUNTY PARK PROPERTY; REQUIRING CONFIRMATION THAT AN EMPLOYEE OR VOLUNTEER IS NOT LISTED ON THE NATIONAL SEX OFFENDER PUBLIC WEBSITE; PROHIBITING SEXUAL OFFENDERS, SEXUAL PREDATORS, CERTAIN VIOLENT FELONS, CERTAIN NARCOTICS TRAFFICKERS, AND NON-LEGAL IMMIGRANTS FROM WORKING OR VOLUNTEERING ON PARK PROPERTY BELONGING TO MIAMI-DADE COUNTY; PROVIDING AUTHORITY FOR ENFORCEMENT BY CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board is concerned about the security and safety of children visiting Miami-Dade County parks; and

WHEREAS, there is a strong likelihood that children visiting County-owned or operated parks will come into direct contact with persons working or volunteering on County-owned or operated park property; and

WHEREAS, the County currently requires criminal background checks only of staff members and volunteers of fairs, carnivals, and Programming Partners operating on County-owned or operated park property; and

WHEREAS, requiring criminal background checks of all persons working or volunteering on County-owned or operated park property would reduce the incidence of direct contact between children and sexual predators or violent felons,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 26-33 of the Code of Miami-Dade County (the "Code") is hereby  
deleted in its entirety:<sup>1</sup>

~~[[Sec. 26-33. The Shannon Melendi Act.~~

~~A. All Programming Partner staff and volunteers who will have direct contact with program participants, at their expense, must show proof of official statewide background checks (either through the Florida Department of Law Enforcement or the Miami-Dade Police) for substance abuse, family violence and crimes of moral turpitude. The Department will seek a cooperative agreement with the Miami-Dade Police Department to provide such services at a discount for Partners. All Programming Partner staff must show proof of legal immigrant status in the United States. The Programming Partner shall keep records of all background checks and proof of legal immigrant status.~~

~~B. All Programming Partner staff and permanent volunteer coaches shall wear a picture identification at all times while on County property and at all times when in direct contact with program participants.~~

~~C. All fair and carnival employees or agents who will have direct contact with children under the age of 18 in a Miami-Dade County park, shall, at their expense, show proof of official statewide background checks (either through the Florida Department of Law Enforcement or the Miami-Dade Police) for substance abuse, family violence and crimes of moral turpitude. All fair and carnival employees or agents working in a Miami-Dade County park must show either proof of U.S. citizenship or legal immigrant status in the United States. The employer of any fair or carnival employee serving in a Miami-Dade County park shall keep records of all background checks and proof of legal immigrant status.~~

~~D. All fair and carnival employees or agents who will have direct contact with children under the age of 18 in a Miami-Dade County park shall wear a picture identification at all times while on County property and at all times when in direct contact with program participants.]]~~

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**Section 2.** Article III of Chapter 26 of the Code is hereby created as follows:

**Chapter 26 PARK AND RECREATION DEPARTMENT RULES AND REGULATIONS**

\*

\*

\*

**ARTICLE III. THE SHANNON MELENDI ACT**

**Sec. 26-37. Definitions.**

As used in this article the following terms shall have the following meanings:

- A. *Community-based Organization (CBO)* shall refer to any not-for-profit agency, group, organization, society, association, partnership, or individual whose primary purpose is to provide a community service to improve or enhance the well-being of the community of Miami-Dade County at large or to improve or enhance the well-being of certain individuals within this community who have special needs.
- B. ~~*Child Event Worker*~~ shall refer to any full- or part-time employee, agent, volunteer, independent contractor, or employee or volunteer of an independent contractor of a carnival or fair that hosts amusement rides in a park owned or operated by Miami-Dade County. The following persons shall be exempted from this definition:
- (1) Any volunteer who is on a park owned or operated by Miami-Dade County for a period not to exceed 72 consecutive hours;
  - (2) Members of the working media;
  - (3) Official sponsors of a carnival or fair who are at all times accompanied by a person having undergone a criminal background check;
  - (4) Law enforcement personnel;
  - (5) Emergency or fire rescue personnel;
  - (6) Persons conducting deliveries;
  - (7) Military recruitment personnel; and
  - (8) Inspectors or compliance officers for Miami-Dade County, the state of Florida, or the federal government.
- C. *Conviction* shall refer to a determination of guilt of a criminal charge which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.



- D. *Park vendor* shall refer to any full- or part-time employee, agent, volunteer, independent contractor, or employee or volunteer of an independent contractor that has a contract with, or permit from, Miami-Dade County to rent or sell food, beverages, sporting equipment, or any other goods or services in a park owned or operated by Miami-Dade County. The following persons and events shall be exempted from this definition:
- (1) Any volunteer who is on a park owned or operated by Miami-Dade County for a period not to exceed 72 consecutive hours;
  - (2) Members of the working media;
  - (3) Law enforcement personnel;
  - (4) Emergency or fire rescue personnel;
  - (5) Persons conducting deliveries;
  - (6) International or national sporting events;
  - (7) One-day events; and
  - (8) Carnivals, festivals, trade shows, and fairs that do not host amusement rides.
- E. *Professional Background Screener* shall refer to any person, company, organization or agency which, for monetary fees, dues, or on a not-for-profit basis, regularly engages in whole or in part in the practice of researching and assembling criminal history information on specific persons for the purpose of furnishing criminal history reports to third parties.
- F. *Programming Partner* shall refer to any Not-For-Profit Program Service Provider that is selected by the Department under Article II of this chapter and the accompanying Administrative Order to provide programs in County Park and Recreation Facilities.
- G. *Sexual Offender* shall include any individual who meets the criteria of a "sexual predator" as defined in Section 775.21(4) of the Florida Statutes, or a "sexual offender" as defined in Section 943.0435 of the Florida Statutes, or who is listed on the National Sex Offender Public Website owned or operated by the United States Department of Justice.
- H. *Volunteer* shall refer to any individual performing volunteer duties for a CBO, for a Programming Partner, or for the Miami-Dade Park and Recreation Department for more than 72 consecutive hours in any six (6) month period. Students volunteering in order to fulfill high school graduation requirements shall be exempted from this definition.

**Sec. 26-38. Background checks Required for Child Event Workers, Park Vendors, and Programming Partner or Community-Based Organization (CBO) Employees and Volunteers.**

- A. Prior to employing, or allowing to volunteer, a person whose duties would require physical presence on park property owned or operated by Miami-Dade County, employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall secure a nationwide criminal background check of all such prospective child event workers, park vendors, employees or volunteers having obtained legal immigrant status in the United States more than 120 days prior to the scheduled start of employment or volunteerism.

The nationwide criminal background checks shall be conducted by a Professional Background Screener and shall include a report as to whether each child event worker, park vendor, staff member or volunteer is listed on the National Sex Offender Public Registry, and a comprehensive report and analysis, obtained from no less than two independent databases/sources, on the nationwide criminal history of such child event worker, park vendor, staff member or volunteer.

- B. Every year, employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall secure nationwide criminal background checks for existing park vendors, child event workers, staff members, and volunteers whose duties require physical presence on park property owned or operated by Miami-Dade County.
- C. Any child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO who:
- (1) has been convicted of a felony involving violence within the past five (5) years; or
  - (2) has been convicted of a felony involving the trafficking of narcotics within the past (5) years; or
  - (3) is a sexual offender or a sexual predator; or
  - (4) has failed to provide the Programming Partner or CBO with proof of United States citizenship or legal immigration status in the United States,

shall be prohibited from working or volunteering on park property owned or operated by Miami-Dade County. All child event workers, park vendors, and staff members and volunteers of a Programming Partner or CBO shall submit to their employer, to the Programming Partner, or to the CBO an affidavit affirming that no work or volunteer duties will be performed on park property owned or operated by Miami-Dade County in violation of this sub-section.

- D. Employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall maintain copies of the results of the criminal background checks required by this section for a period of two (2) years from the date they were secured. Employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall maintain the affidavits required by Section 26-38(C) and the copies of the proof of United States citizenship or legal immigration status until the person is no longer a child event worker, park vendor, staff member, or volunteer.

Employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall, upon request, provide copies of these documents to Miami-Dade County or to any law enforcement personnel with jurisdiction.

- E. Every child event worker, park vendor, and staff member and volunteer of a Programming Partner or CBO shall wear, in a conspicuous and visible manner, an identification badge that contains his/her photograph and full name while working or volunteering on park property owned or operated by Miami-Dade County, except when in costume and during a performance. The identification badge shall be of a size, design, and format approved by the Miami-Dade Park and Recreation Department.

F. Penalties and Enforcement.

(1) It shall be unlawful for an employer of child event workers, an employer of park vendors, or a Programming Partner or CBO to knowingly permit or allow any child event worker, park vendor, staff member, or volunteer to work or volunteer on park property owned or operated by Miami-Dade County in violation of this section.

(2) It shall be unlawful for any child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO to work or volunteer on park property owned or operated by Miami-Dade County in violation of this section.

(3) Any person who shall violate a provision of this section, or fail to comply therewith, or with any of the requirements thereof, shall upon conviction thereof in the County Court, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment.

(4) Any person who violates or fails to comply with this section shall also be subject to civil penalties in accordance with Chapter 8CC of this code. Each day of violation or noncompliance shall constitute a separate offense.

**Sec. 26-39. Miami-Dade Park and Recreation Department Employees and Volunteers.**

- A. The Miami-Dade Park and Recreation Department shall secure a nationwide criminal background check prior to employing, or allowing to volunteer, a person whose primary duties would require physical presence on park property owned or operated by Miami-Dade County. This nationwide criminal background check shall be conducted through the Florida Department of Law Enforcement.
- B. Every year, the Miami-Dade Park and Recreation Department shall secure nationwide criminal background checks for existing employees and volunteers whose primary duties require physical presence on park property owned or operated by Miami-Dade County. These nationwide criminal background checks shall be conducted by a Professional Background Screener and shall include a report as to whether each employee or volunteer is located on the National Sex Offender Public Registry, and a comprehensive report and analysis, obtained from two independent databases/sources, on the nationwide criminal history of such employee or volunteer.

C. Any employee or volunteer of the Miami-Dade Park and Recreation Department who:

- (1) has been convicted of a felony involving violence within the past five (5) years; or
- (2) has been convicted of a felony involving the trafficking of narcotics within the past (5) years; or
- (3) is a sexual offender or a sexual predator; or
- (4) has failed to provide the Miami-Dade Park and Recreation Department with proof of United States citizenship or legal immigration status in the United States,

shall be prohibited from working or volunteering on park property owned or operated by Miami-Dade County. All employees and volunteers of the Miami-Dade Park and Recreation Department shall submit to the Miami-Dade Park and Recreation Department an affidavit affirming that no work or volunteer duties will be performed on park property owned or operated by Miami-Dade County in violation of this subsection.

- D. The Miami-Dade Park and Recreation Department shall maintain copies of the results of the criminal background checks required by this section for a period of two (2) years from the date they were secured. The Miami-Dade Park and Recreation Department shall maintain the affidavits required by Section 26-39(C) and shall maintain copies of the proof of United States citizenship or legal immigration status until the person is no longer an employee or volunteer.

E. Every employee and volunteer of the Miami-Dade Park and Recreation Department shall wear, in a conspicuous and visible manner, an identification badge that contains his/her photograph and full name while working or volunteering on park property owned or operated by Miami-Dade County, except when in costume and during a performance. The identification badge shall be of a size, design, and format approved by the Miami-Dade Park and Recreation Department.

F. Penalties and Enforcement.

(1) It shall be unlawful for any employee or volunteer of the Miami-Dade Park and Recreation Department to work or volunteer on park property owned or operated by Miami-Dade County in violation of this section.

(2) Any person who shall violate a provision of this chapter, or fail to comply therewith, or with any of the requirements thereof, shall upon conviction thereof in the County Court, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment.

(3) Any person who violates or fails to comply with this chapter shall also be subject to civil penalties in accordance with Chapter 8CC of this code. Each day of violation or noncompliance shall constitute a separate offense.

**Section 3.** Section 8CC-10 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

**Sec. 8CC-10. Schedule of civil penalties.**

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this Chapter 8CC, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

\*

\*

\*

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
>>26-38(A)	<u>Failure to secure nationwide criminal background check of a prospective child event worker, park vendor, or employee or volunteer of a Programming Partner or CBO whose duties would require physical presence on Miami-Dade County-owned or operated park property</u>	<u>500.00</u>
26-38(B)	<u>Failure to secure nationwide criminal background check of an existing park vendor, child event worker, or staff member or volunteer of a Programming Partner or CBO whose duties require physical presence on Miami-Dade County-owned or operated park property</u>	<u>500.00</u>
26-38(C)	<u>Permitting or performing work or volunteerism on Miami-Dade County-owned or operated park property by child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO who has been convicted of a felony involving violence within the past five (5) years</u>	<u>500.00</u>
	<u>Permitting or performing work or volunteerism on Miami-Dade County-owned or operated park property by child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO who has been convicted of a felony involving the trafficking of narcotics within the past five (5) years</u>	<u>500.00</u>
	<u>Permitting or performing work or volunteerism on Miami-Dade County-owned or operated park property by child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO who is a sexual offender or a sexual predator</u>	<u>500.00</u>
	<u>Permitting or performing work or volunteerism on Miami-Dade County-owned or operated park property by child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO who has failed to provide proof of United States citizenship or legal immigration status</u>	<u>500.00</u>
26-38(D)	<u>Failure to collect or maintain copies of criminal background checks, affidavits, or United States citizenship or legal immigration status proof of a child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO</u>	<u>500.00</u>

<u>26-38(E)</u>	<u>Failure of child event worker, park vendor, or staff member or volunteer of a Programming Partner or CBO to wear in a conspicuous and visible manner the required identification badge while working or volunteering on Miami-Dade County-owned or operated park property</u>	<u>250.00</u>
<u>26-39(E)</u>	<u>Failure of Park and Recreation Department employee or volunteer to wear in a conspicuous and visible manner the required identification badge while working or volunteering on Miami-Dade County-owned or operated park property</u>	<u>250.00</u> <<

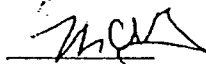
Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Monica Rizo

Sponsored by Senator Javier D. Souto

	Coaches 2006-07	\$26 per Coach
American Youth Soccer Association-Strike Force	30	780
AYSO	24	624
BEACHES Foundation	-	
Boys and Girls Club	74	1924
Coral Estates Soccer Club	12	312
Everglades Archers	3	78
Flagami Baseball	10	260
Greater Goulds Optimist	4	104
Howard Palmetto	126	3276
Junior Marlins	11	286
MetroAquatic Club	5	130
Miami Friends	280	7280
Northside Optimist	27	702
New Birth Optimist	27	702
Optimist of Kendall Hammocks	91	2366
Optimist of West Kendall	18	468
Optimist Club of Ives Estates	-	
Palm Springs North	10	260
Perrine Optimist Club of Miami	27	702
Pinecrest Premier	31	806
Rockway Swim Club	3	78
Southern Soccer Coalition	26	676
South Kendall Soccer Club	30	780
South Kendall Optimist	6	156
Tamiami Youth Baseball	370	9620
Westchester Optimist	48	1248
<b>TOTALS</b>	<b>1293</b>	<b>\$ 33,618</b>